

DEVELOPMENT AGREEMENT
INDUSTRIAL ACCESS ROAD

THIS AGREEMENT is made as of the 26th day of February, 2001, by and between the COUNTY OF YORK, VIRGINIA, a duly constituted subdivision of the Commonwealth of Virginia, hereinafter "the County," and BULIFANTS, L.P., a Virginia limited partnership, hereinafter "Bulifants."

W I T N E S S E T H :

WHEREAS, Bulifants is the owner of a parcel of real property located on Mooretown Road (State Route 603) in York County, further identified as York County Tax Map Parcel No. 2-34, ("the Property") on which Bulifants desires to construct an industrial park; and

WHEREAS, Bulifants desires to construct an access road intersecting with Mooretown Road to provide access to industrial sites proposed to be subdivided and developed by Bulifants, such road to be substantially as shown on a conceptual subdivision plan by Landmark Design Group, dated February 19, 2001; and

WHEREAS, Bulifants and the County both desire to obtain State funding for the construction of the access road pursuant to Code of Virginia § 33.1-221 and the Bonded Industrial Access Roads Program ("the Program") pursuant to applicable statutes and regulations; and

WHEREAS, the requirements of the Program are that the County must guarantee to the Commonwealth Transportation Board ("the Transportation Board") the cost of right-of-way acquisition, utility relocation, and road

construction, and must furnish to the Transportation Board a bond or other surety in an amount equal to the actual construction cost of the roadway built to the Virginia Department of Transportation (VDOT) standards, such bond to be forfeitable in whole or in part to the Transportation Board in the event that qualifying industrial establishments have not been constructed on sites to which the road shall provide access within five (5) years of the date of such bond or other surety; and

WHEREAS, the parties desire and agree that Bulifants shall guarantee to the County the cost of actual road construction, and shall hold harmless and guarantee the County from all such costs, according to the terms and conditions set out herein.

NOW, THEREFORE, the parties agree as follows:

1. Bulifants shall bear all costs of the construction of the access road and shall guarantee and hold harmless the County from all such costs, except to the extent that such costs may be assumed by the Transportation Board through the Program.

2. In the event that the County shall submit to the Transportation Board an application for funding of the construction of the access road pursuant to the Program, and shall post a bond or other surety satisfactory to the Transportation Board equal to the expected cost of road construction ("the County Bond"), then Bulifants shall guarantee and hold harmless the County from all liability to the

Transportation Board for such costs.

3. In the event that the Transportation Board shall make demand upon the County for the payment of all or a portion of road construction costs, or the County shall forfeit a bond or other surety, or any part thereof, to the Transportation Board for road construction costs, Bulifants shall provide to the County cash sufficient to make such payment or to reimburse the County for the amount of the forfeiture within fifteen (15) days of demand being made upon Bulifants by the County.

4. In order to guarantee Bulifants' obligations as set out herein, prior to or contemporaneously with the submission by the County to the Transportation Board of a bond or other surety for road construction costs, Bulifants shall provide the County with a bond or other surety ("the Bulifants Bond") acceptable to the County in all respects in an amount equal to the County Bond. The Bulifants Bond shall be conditioned upon Bulifants' failure to provide payment to the County as set out herein.

5. The Bulifants Bond shall have an expiration date no sooner than sixty (60) days following the expiration of the County Bond. If, for any reason, the Transportation Board requires the County to increase the amount of its bond, or to extend the expiration date of the bond, upon demand by the County, Bulifants shall similarly increase or extend the expiration of the Bulifants Bond. Failure to do so shall be deemed a default of the terms and conditions of this Agreement.

Likewise, in the event that the County is ever permitted by the Transportation Board to reduce the amount of the County Bond, and does so, Bulifants may equally reduce the amount of the Bulifants Bond.

6. Bulifants shall convey to VDOT or to such other entity as the Transportation Board shall direct, at no cost to the County or to the Commonwealth of Virginia, all necessary rights-of-way for the construction of the road, together with all construction easements, utility and drainage easements, or other interests in land as may be required in connection with the roadway, and shall, at no cost to the County or to the Commonwealth of Virginia, relocate or cause the relocation of any utilities which are required to be relocated in order to complete construction of the road.

7. If the County is required by the terms and conditions of the Program to provide any matching funds in order to secure full funding by the Transportation Board of all road construction costs, Bulifants shall provide all such matching funds. Moreover, if the actual construction costs exceed the amount of eligible State funding under the Program, Bulifants shall bear full responsibility for all such costs and upon demand, shall reimburse the County for any such costs incurred by the County.

8. This Agreement shall be binding on both parties, and their respective successors and assigns.

WITNESS the following signatures and seals:

COUNTY OF YORK, VIRGINIA

By _____ (SEAL)
County Administrator

BULIFANTS, L.P.

By: International Bulifants, Inc., general partner

By Richard F. Wilkinson (SEAL)

Title President

APPROVED AS TO FORM:

COUNTY ATTORNEY